

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Claudia Quigley	Team: Team # 7	CCRB Case #: 200810196	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 07/05/2008 11:55 PM	Location of Incident: Edgemere Avenue and Beach 45th Street	Precinct: 101	18 Mo. SOL 1/5/2010	EO SOL 1/5/2010	
Date/Time CV Reported Thu, 07/17/2008 12:35 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/17/2008 12:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Ragoo	01854	939268	101 PCT
2. SGT Patrick Cain	01702	931572	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Patrick Cain	Force: Sgt. Patrick Cain pointed his gun at § 87(2)(b)	
B.POM Jason Ragoo	Force: PO Jason Ragoo pointed his gun at § 87(2)(b)	
C.POM Jason Ragoo	Force: PO Jason Ragoo struck § 87(2)(b) with a vehicle.	

Synopsis

§ 87(2)(b) called the CCRB on July 17, 2008 to file a complaint on behalf of her son, § 87(2)(b). According to § 87(2)(b) on July 5, 2008, he went to a party at Far Rockaway in Queens. § 87(2)(b) did not know what happened to him between 9:00pm and 11:55pm, other than around 11:55pm he found himself walking down Edgemere Avenue in his boxers and with no shirt and no shoes in a dazed state of mind. § 87(2)(b) looked behind him and observed Sgt. Patrick Cain and PO Jason Ragoo standing behind him next to an unmarked car with their guns pointed at him (allegation A and B). The officers told him to stop but § 87(2)(b) continued walking. Suddenly, § 87(2)(b) was hit by a car, which was being driven by PO Ragoo (Allegation C). § 87(2)(b) was taken to the § 87(2)(b) Hospital and discharged into the officers' custody a few hours later with no major injuries. § 87(2)(b) was charged with weapon possession, as he was holding a loaded defaced gun in his right when he was apprehended.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) arrived at § 87(2)(b) Hospital on § 87(2)(b) (encl. 17D).
§ 87(2)(b) s complaint that he was struck by a car and received a laceration to the head.

§ 87(2)(b) was interviewed on October 14, 2008 at § 87(2)(b) (encl. 8B).
§ 87(2)(b) stated that on July 5, 2008 he met with his friend "§ 87(2)(b)" outside § 87(2)(b) s house at approximately 8:00pm. § 87(2)(b) did not know § 87(2)(b) real name or his contact information. § 87(2)(b) was wearing a white and black t-shirt, black shorts, sneakers, and socks. § 87(2)(b) drove § 87(2)(b) to a barbeque hosted by § 87(2)(b) s friend, § 87(2)(b). The barbeque was taking place at a park in the vicinity of Rockaway Beach Boulevard and Beach 79th Street in Queens. § 87(2)(b) s family and friends were at the barbeque. § 87(2)(b) is not a friend of § 87(2)(b) s but he stayed for the party and he and § 87(2)(b) ate some food and drank some alcohol. They arrived at the barbeque at approximately 8:15pm. § 87(2)(b) drank about three cups of hard alcohol combined with a mixer. He did not remember what exactly he was drinking and he drank them within an hour. The cups were styrofoam cups.

§ 87(2)(b) did not remember precisely what happened after he drank the third cup. He started feeling awkward and dizzy, as if he was about to pass out. § 87(2)(b) was later informed by § 87(2)(b) that he took his t-shirt off and began acting out of control. The people at the party tried to calm him down and sat him on a bench. The last time they saw him was when he was sitting at the bench, after that § 87(2)(b) disappeared. Everybody looked for him but nobody knew where he went. The last thing § 87(2)(b) remembers was sitting at the bench around 9:00pm. § 87(2)(b) believes that someone put something in his drink that disoriented him. However, he did not know what it was and could not think of anybody from the party who would do that. § 87(2)(b) did remember leaving his third drink unattended. § 87(2)(b) has not spoken to § 87(2)(b) since the incident happened and did not know where § 87(2)(b) went after § 87(2)(b) became confused at the party.

§ 87(2)(b) did not recall how he arrived at Edgemere Avenue and Beach 45th Street, where the encounter with the officers took place at 11:55pm. He did not know where he was or what he did between 9:00pm and 11:55pm. At around 11:55pm § 87(2)(b) found himself walking on the street as if waking up from being asleep. He was alone, he did not have a shirt on, and he had no shoes. § 87(2)(b) looked behind him and saw two plainclothes officers about twenty feet away from him with their guns drawn and pointed at him. He identified one of the officers as PO Jason Ragoo. This officer was § 87(2)(b) s arresting officer. The second officer was identified as Sgt. Patrick Cain by the investigation. The officers were standing outside their unmarked black car with the driver and the passenger doors opened between them and § 87(2)(b) as if using the doors as shields. The officers yelled stop,

but § 87(2)(b) continued walking forward because he was dazed. Approximately one minute later § 87(2)(b) was hit by a car and catapulted into the air. He landed on his back on the windshield of the police car. The windshield was smashed. § 87(2)(b) slid off the hood of the car and fell into the bushes. The car hit him on the back of his right leg.

§ 87(2)(b) stated that he did not remember anything else besides waking up in the ambulance and seeing other police cars there. However, upon further questioning, § 87(2)(b) stated that he remembered being handcuffed and lying on the ground for while. He was then picked up by an officer and escorted towards the ambulance. § 87(2)(b) was taken to the § 87(2)(b) Hospital. § 87(2)(b) did not remember having anything in his hands, but the police accused him of having a gun in his hands. § 87(2)(b) denied having a gun on him the date of the incident. § 87(2)(b) received a concussion or contusion on the back of his head, abrasions of his back and his arms, and his right ankle was swollen. § 87(2)(b) stated that he is still having problems with is ankle and is using a cane for the time being.

§ 87(2)(b)'s arrest photo does not show any visible injuries (encl. 9A).

Results of Investigation

Investigative Steps

According to the SPRINT (encl. 19A-E), § 87(2)(b) last name unknown, called 911 on July 5, 2008 to report a male with a gun at 29-18 Brookhaven Avenue in Queens. On April 7, 2009, an attempt was made to contact § 87(2)(b) through the phone number provided in the SPRINT, § 87(2)(b). However, the number has been changed since the incident and the female that answered the call did not know anything about the incident. The Whitepages yielded two numbers for the above address. A call was placed to § 87(2)(b) and a voice mail message was left in the answering machine. A call was placed to § 87(2)(b) and male answered the phone. Upon asking him whether or not a male with a gun showed up at the location on July 5, 2008, he stated that the incident did happen. However, upon asking him additional questions, the male became upset, refused to provide any additional statements, and hung up.

Witness Statements

§ 87(2)(b) was interviewed over the phone on October 15, 2008 (encl. 10A).

§ 87(2)(b) identified § 87(2)(b) as the friend that hosted the party § 87(2)(b) attended prior to the incident. § 87(2)(b) was located through the Whitepages (encl. 21B)

§ 87(2)(b) stated that on July 5, 2008 she had a barbeque at a park in the vicinity Rockaway Beach Boulevard and Beach 79th Street in Queens. The barbeque started at approximately 5:00pm and § 87(2)(b)'s friend, § 87(2)(b) arrived with his friend § 87(2)(b) between 6:30pm and 7:00pm. § 87(2)(b) did not know § 87(2)(b)'s real name. § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) were acting normal during the barbeque. § 87(2)(b) stated that there was no liquor at the barbeque, only some punch which her mother made with no alcohol. § 87(2)(b) stated that at some point during the night § 87(2)(b) set his food and his drink down. Some time later § 87(2)(b) started acting crazy.

§ 87(2)(b) stated there was a group of people having a barbeque next to her party. According to § 87(2)(b) a woman she could not identify observed some guys from that barbeque slip something in § 87(2)(b)'s drink. However, this woman was unable to provide a statement on § 87(2)(b)'s behalf because her husband prohibited her from getting involved. § 87(2)(b) stated that § 87(2)(b) began acting insane, screaming, and yelling. She tried to calm him down but he did not listen. § 87(2)(b)'s aunt tried to get § 87(2)(b) home but he refused to go. Eventually, § 87(2)(b) began walking away from the party around 8:30pm and suddenly he was gone. At this time, § 87(2)(b) began cleaning up because the park closed at 9:00pm. She began calling § 87(2)(b)'s cell phone. The phone just kept ringing until 11:50pm, when she called and the phone went to voice mail. She went to his house with her aunt but nobody answered the bell. § 87(2)(b) called § 87(2)(b) the next day from central booking and told her that he was hit by a police car but he did not know what happened before this. § 87(2)(b) did not know what happened to § 87(2)(b) and did not know when he disappeared.

§ 87(2)(b) provided a phone statement on November 6, 2008 (encl. 11A).

§ 87(2)(b) was identified through the SPRINT as one of the civilians that called 911 upon observing § 87(2)(b) with the gun in his hand.

According to § 87(2)(b) on July 5, 2008 he was driving home with his family at approximately 11:55pm. They were at Edgemere Avenue and Beach 45 Street in Queens when § 87(2)(b) observed the car in front of him swerve to the side. Then § 87(2)(b) observed that in front of the car there was a young black male, identified as § 87(2)(b) by the investigation, walking on the middle of the street holding a gun in his hand. The gun was pointing towards the ground. § 87(2)(b) was shirtless but had shorts and sneakers on. He was holding the gun in his right hand and his arm was down by his side. § 87(2)(b) looked towards § 87(2)(b) and § 87(2)(b) observed that he had an angry expression on his face. Immediately § 87(2)(b) made a turn to drive away from § 87(2)(b) and called 911. He gave the operator the details and the address. § 87(2)(b) kept driving but decided to go back because he felt bad and afraid that the police may shoot down § 87(2)(b) given that he had a gun in his hand. They were also afraid that § 87(2)(b) may harm somebody. § 87(2)(b) made a turn and returned to the location about three minutes after originally seeing § 87(2)(b). However, when he drove by the location he observed that the officers had § 87(2)(b) in custody. He was standing up and leaning against the front of a police car. He was already handcuffed. § 87(2)(b) did not observe any injuries or any bleeding on § 87(2)(b). There were multiple officers at the scene in uniform and plainclothes. § 87(2)(b) kept on going home.

Officer Identification

PO Jason Ragoo was identified as § 87(2)(b)'s arresting officer. PO Ragoo identified Sgt. Patrick Cain as his partner. On July 5, 2008 PO Ragoo and Sgt. Cain worked from 6:00pm to 2:00am. They were assigned to the Anti-Crime Unit, they were dressed in plainclothes, and assigned to an unmarked vehicle. PO Ragoo was the driver.

Officers' Statements

PO Jason Ragoo's Memo Book Entry, July 5, 2008 (encl. 12B).

PO Ragoo noted in his memo book that at 11:55pm he arrested a male at Beach 45th Street and Edgemere Avenue. At 4:30am the arrestee was transported to central booking.

PO Jason Ragoo's Complaint Report Narrative (encl. 13A-B).

On July 5, 2008 at Edgemere Avenue and Beach 45th Street, § 87(2)(b) was observed in possession of a loaded defaced firearm, a subsequent search revealed that he also possessed a quantity of live ammunition.

PO Jason Ragoo was interviewed at the CCRB on January 28, 2009 (encl. 14B).

According to PO Ragoo, on July 5, 2008 at approximately 11:40pm the officers were on patrol when they received a radio run about a male with a gun. PO Ragoo did not know who made the 911 call or the specific details. However, according to the SPRINT records, there was a house party and the male, identified as § 87(2)(b) showed up at the party brandishing a fire arm and menacing the guests. Someone at the party called 911. PO Ragoo did not respond to the party location, but other units did and they obtained § 87(2)(b)'s description and the direction he headed after leaving the party. According to the information, § 87(2)(b) was a black male wearing shorts but no shirt with a silver fire arm and he was in the Weeds. This is the name given to the area separating the street from the boardwalk.

PO Ragoo and Sgt. Cain drove to the Weeds and began canvassing the area. They were driving down the street, which is well lit but desolate at that time of night. After few minutes the officers observed § 87(2)(b) crossing the street from the Weeds onto the street, underneath the train station for the A train. § 87(2)(b) was walking with a silver firearm on his right hand pointed down and with his back to the officers. The officers pulled over behind him, exited the car, drew their guns, and told § 87(2)(b) "Police, don't move, drop the firearm." § 87(2)(b) stopped walking, looked at the officers for a few seconds, turned back around, and kept on walking. The officers got back into their car followed him for about ten feet and did as before. § 87(2)(b) stop, turned around, looked at the officers, and raised the arm with the gun. He did not point the gun at the officers but showed it to the officers to let them know he still had the gun. § 87(2)(b) then turned around and kept on walking.

The officers got back into their car and followed him again for about ten feet and did as before for the third time.

§ 87(2)(b) again turned to them raise his arm with the gun but did not point it at the officers, then turned around

and kept on walking. However, at this time the officers observed civilian vehicles coming their way. The officers were concerned at what § 87(2)(b) might do, such as open fire on the vehicles, therefore, PO Ragoo drove his car forward to attempt to pass § 87(2)(b) and block his way with the car. PO Ragoo's plan was to cut in close to § 87(2)(b) so there would not be a lot of room between § 87(2)(b) and the car. The plan was for Sgt. Cain to come out of the car and tackle § 87(2)(b) with the car between § 87(2)(b) and the sergeant as shield as the sergeant ran to him. However, as he was driving, § 87(2)(b) continued walking and PO Ragoo accidentally hit § 87(2)(b). § 87(2)(b) was slightly hit in the right leg by the front fender at about 10 miles per hour. § 87(2)(b) rolled over the hood of the car and the gun went flying out of his hand. He disappeared over the hood and Sgt. Cain exited the car and ran to the front. By the time PO Ragoo put the car on park and ran out, Sgt. Cain was finishing handcuffing § 87(2)(b).

PO Ragoo went to the side to recover the firearm and when he came back he proceeded to search § 87(2)(b). He recovered 37 rounds from § 87(2)(b)'s pocket and the fire arm was loaded with five rounds and there was a spent round, fired at some undetermined point. The gun's serial number was scratched off and ballistics determined that the gun was fully functional. The officers called for an ambulance although § 87(2)(b) did not seem to be hurt other than from a small cut on his head that did not require stitches. The officers asked § 87(2)(b) if he was okay and he responded he was. They asked him what happened and he responded that he had "beef" with some people. PO Ragoo explained that by this § 87(2)(b) meant that he was involved in some kind of argument and fight. They asked him where he was headed and he told them he was on his way to § 87(2)(b), an apartment complex a few blocks away. He was aware that he was hit by a car and that he had a gun. Although he refused medical attention, he was taken to the hospital to § 87(2)(b). Hospital were the X-ray did not show any fractures or major injuries.

Sgt. Patrick Cain's Memo Book Entry, July 5, 2008 (encl. 15B).

Sgt. Cain noted in his memo book that at 11:55pm a male was arrested at Edgemere Avenue by PO Ragoo.

Sgt. Patrick Cain was interviewed at the CCRB on February 20, 2009 (encl. 16B).

According to Sgt. Cain, on July 5, 2008 at approximately 11:40pm the officers were on patrol when they received a radio run about a male showing up and brandishing a gun at house party taking place in the vicinity of Brookhaven Avenue in Far Rockaway. The male, identified as § 87(2)(b) was black, about 20 years old, was not wearing a shirt, and had left the party in the direction of the water. Sgt. Cain and PO Ragoo drove towards Edgemere Avenue to begin canvassing the area. About five minutes later, when they drew near Beach 45th Street, they observed § 87(2)(b) walking west bound on Edgemere Avenue, with his back to them. He was holding a silver firearm in his right hand pointed downwards. The officers stopped about a hundred yards behind § 87(2)(b) and exited their vehicles. They drew and pointed their guns at § 87(2)(b) and screamed at him to stop moving. § 87(2)(b) continued walking and did not turn around. The officers got back into their vehicle and followed § 87(2)(b) another hundred yards and did as before. § 87(2)(b) continued walking without acknowledging the officers. The officers got back into their vehicle and followed § 87(2)(b) for the third time. They stopped their car, got out, and screamed at § 87(2)(b) to stop moving while pointing their guns towards him. This time § 87(2)(b) stopped walking, looked over his shoulder, and raised the right arm with the gun horizontally with his body, and pointed the gun towards the ground. He then continued walking.

At this point, Sgt. Cain observed a white civilian van about two hundred a fifty yards away, driving in their direction. Sgt. Cain and PO Ragoo immediately got back in the car and Sgt. Cain instructed PO Ragoo to drive forward and block § 87(2)(b)'s way with the car, so that the car would prevent § 87(2)(b) from walking towards the van and car would stand between § 87(2)(b) and the van. Sgt. Cain was concerned that § 87(2)(b) may open fire or even tried to take a hostage from the van. PO Ragoo drove the car forward, at about 10 to 15 miles per hour on the left side of the street. As PO Ragoo turned right in an effort to cut § 87(2)(b) off, § 87(2)(b) moved left before the turn was complete and the front right of the car hit § 87(2)(b). He bounced onto the hood of the car, smacked the right side of the windshield, and rolled off. The gun went flying out of his hand on impact. The officers exited the car and ran to the front of the car to check § 87(2)(b) who was lying face down on the ground. Sgt. Cain handcuffed § 87(2)(b) while PO Ragoo went to recover the gun, which landed about five feet away. Sgt. Cain then called for an ambulance and stood § 87(2)(b) up. § 87(2)(b) had a small laceration on his head and some blood. § 87(2)(b) was able to walk fine and when the ambulance arrived shortly after, he refused medical attention. However, given that he was hit by a police car, he was made to go to the hospital. Sgt. Cain went back to the stationhouse to prepare the paperwork. The gun was recovered and further investigation revealed that it

was fully loaded and defaced. Sgt. Cain also stated that a search of § 87(2)(b) had revealed a large number of live ammunition in his pockets fitting the gun. Sgt. Cain stated that § 87(2)(b) did not sustain any broken bones as a result of the impact.

Medical Records

§ 87(2)(b) arrived at § 87(2)(b) Hospital on July 6, 2008 (encl. 17A-J).

§ 87(2)(b) was escorted to § 87(2)(b) Hospital by the NYPD, arriving at approximately 1:02am. An exam with multiple views of the right tibia-fibula showed no fracture, dislocation, or soft tissue abnormality. Clinical information ruled out any bleeding. A CT of the head showed normal size and configuration. No mass or mass effect was seen and no intracranial hemorrhage was visualized. The evaluation of the bony structure of the skull showed no fracture or lesions.

§ 87(2)(b) Medical Records (encl. 18A1-91).

§ 87(2)(b)'s prior records showed that he was a smoker and that he had a spine trauma on § 87(2)(b). Medical problems noted on § 87(2)(b): multiple abrasions- to left side of face and right upper back, right ankle and calf trauma, but there was no neurological deficit. § 87(2)(b) visited the orthopedics on § 87(2)(b), § 87(2)(b). He was prescribed Ibuprofen, bacitracin ointment, naprosyn, baclofen, and analgesic balm. An MRI of the right knee showed the quadriceps and patellar tendons intact. The ACL and PCL are normal in color and contour. Final impression showed signal in the posterior horn of the medial meniscus without articular extension and joint effusion. A right hand thumb X-ray showed no evidence of acute fracture, dislocation or destructive bony lesion. A right ankle x-ray showed no evidence of acute fracture, dislocation or destructive bony lesion.

NYPD Documents

- SPRINT (encl. 19A-E) – according to the SPRINT print out, on July 5, 2008 at 11:31pm, a black male arrived at § 87(2)(b) in Queens brandishing a gun. The male left the premises and fled under the elevated train. Multiple units conducted a mobilization of the premises and eventually a unit located the male at Edgemere Avenue and Beach 45th Street. There was a short foot pursuit and the male was apprehended at 11:42pm. EMS was requested and arrived at the scene at 11:50pm. The male was transported to § 87(2)(b) Hospital. A second 911 call came through at 11:35pm from a male stating that a black male wearing short but no shirt was walking on Edgemere Avenue with a gun in his right hand.

§ 87(2)(b)

§ 87(2)(b)

Civilian CCRB History

This is § 87(2)(b)'s only CCRB complaint (encl. 4A).

Police Officer CCRB History

Sgt. Cain and PO Ragoo do not have any substantiated CCRB allegations (encl. 2A, 3A).

Conclusions and Recommendations

Identification of Subject Officers

PO Ragoo was identified as the arresting officer and he confirmed that he was the driver of the car that struck § 87(2)(b). Sgt. Cain and PO Ragoo also confirmed that they drew their guns during their interaction with § 87(2)(b).

Undisputed Facts and Disputed Facts

It is not in dispute that on July 5, 2008 multiple civilians observed § 87(2)(b) holding a gun in his hand. The police were called and the officers began a search for § 87(2)(b). Upon locating § 87(2)(b) PO Ragoo and PO Cain attempted to gain his cooperation but § 87(2)(b) ignored their orders. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation A: Force - Sgt. Patrick Cain pointed his gun at § 87(2)(b)

Allegation B: Force - PO Jason Ragoo pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that officers pointed their gun at him and both officers confirmed that they pointed their guns at § 87(2)(b). § 87(2)(b), § 87(2)(g)

§ 87(2)(b). In Police Department v. Steven Gliner, OATH Case Index # 955/00 the judge rule that

...there are no regulations or guidelines concerning the drawing of a weapon. The policy of the department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety. This policy permits officers to discourage or terminate the attempted use of deadly force against themselves by providing them with a less drastic alternative to the actual use of a firearm (encl. 1A-C).

§ 87(2)(b), § 87(2)(g)

Allegation C: Force - PO Jason Ragoo struck § 87(2)(b) with a vehicle.

§ 87(2)(b) stated that he was hit by a police car. PO Ragoo and Sgt. Cain stated that after § 87(2)(b) failed to follow their instructions for the third time, they observed civilian cars coming their way. § 87(2)(b), § 87(2)(g)

Investigator: _____ Date: _____

Supervisor: _____ **Date:** _____

Reviewed by: _____ **Date:** _____

Reviewed by: _____ **Date:** _____